

THIRTY-FIRST DAY - FEBRUARY 22, 2018**LEGISLATIVE JOURNAL****ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION****THIRTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, February 22, 2018

PRAYER

The prayer was offered by Pastor Bobby Johnston, Freedom Baptist Church, Stamford.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Foley presiding.

The roll was called and all members were present except Senator Kolowski who was excused; and Senators Friesen, Hansen, Larson, Linehan, Morfeld, Thibodeau, Vargas, and Wayne who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the thirtieth day was approved.

COMMITTEE REPORT(S)

Business and Labor

LEGISLATIVE BILL 957. Placed on General File with amendment.
AM1952

1 1. Strike the original sections and insert the following new
2 sections:
3 Section 1. Section 48-125, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:
5 48-125 (1) (1)(a) Except as hereinafter provided, all amounts of
6 compensation payable under the Nebraska Workers' Compensation Act shall
7 be payable periodically in accordance with the methods of payment of
8 wages of the employee at the time of the injury or death or by a method
9 of payment as provided in subsection (2) of this section. Such payments
10 shall be sent directly to the person entitled to compensation or his or
11 her designated representative except as otherwise provided in section
12 48-149 or subsection (2) of this section.
13 (2)(a) Upon agreement between the employer, workers' compensation
14 insurer, or risk management pool and the employee or other person
15 entitled to compensation, payment may be made periodically or in a lump

16 sum to the employee or other person entitled to compensation by check or
17 by direct deposit, prepaid card, or similar electronic payment system.
18 Such agreement shall include notice that payment made by direct deposit
19 or similar electronic payment system is subject to attachment or
20 garnishment pursuant to section 48-149. Such compensation may be
21 transferred by electronic funds transfer or other electronic means to the
22 trust account of an attorney representing the employee or other person
23 entitled to compensation, for the benefit of such employee or other
24 person.

25 (b) If an employer, workers' compensation insurer, or risk
26 management pool imposes any fees or other charges relating to payment by
27 direct deposit, prepaid card, or a similar electronic payment system, the
1 employer, workers' compensation insurer, or risk management pool shall
2 disclose such fees or charges to the employee or other person entitled to
3 compensation.

4 (c) A prepaid card offered by the employer, workers' compensation
5 insurer, or risk management pool shall:

6 (i) Allow the employee or other person entitled to compensation to
7 apply, initiate, transfer, and load payments with no charge by the
8 employer, workers' compensation insurer, or risk management pool;

9 (ii) For the initial prepaid card, be distributed or delivered to
10 the employee or other person entitled to compensation with no charge by
11 the employer, workers' compensation insurer, or risk management pool; and

12 (iii) Provide the employee or other person entitled to compensation,
13 with respect to each payment made to the prepaid card in accordance with
14 this subsection, at least one method of accessing the full payment
15 without fees.

16 (d) An employee or other person entitled to compensation may elect
17 at any time to rescind the agreement under subdivision (2)(a) of this
18 section regarding the method of payment. If such election is made and a
19 new agreement under subdivision (2)(a) of this section is not reached,
20 the employer, workers' compensation insurer, or risk management pool
21 shall change the method of payment to the method of payment of wages of
22 the employee at the time of the injury or death under subsection (1) of
23 this section as soon as practicable and in a manner that allows the
24 employer, workers' compensation insurer, or risk management pool to
25 comply with the requirements of subsection (3) of this section without
26 making a delinquent payment. The employer, workers' compensation insurer,
27 or risk management pool is not required to rescind any payment
28 transaction already made or made to comply with subsection (3) of this
29 section.

30 (e) An employer, workers' compensation insurer, or risk management
31 pool or its agent shall not engage in unfair, deceptive, or abusive
1 practices in relation to the method of payment. No employer, workers'
2 compensation insurer, risk management pool, or agent shall discharge,
3 penalize, or in any other manner discriminate against any employee or
4 other person entitled to compensation because such employee or other
5 person has not consented to receive payments by check or by direct
6 deposit, prepaid card, or a similar electronic payment system.

7 (f) An employer, workers' compensation insurer, or risk management
8 pool that elects to make payment using a prepaid card shall comply with

9 the requirements of 12 C.F.R. part 1005, as such part existed on April 1,
10 2018.

11 ~~(3)~~ ~~(b)~~ Fifty percent shall be added for waiting time for all
12 delinquent payments after thirty days' notice has been given of
13 disability or after thirty days from the entry of a final order, award,
14 or judgment of the Nebraska Workers' Compensation Court, except that for
15 any award or judgment against the state in excess of one hundred thousand
16 dollars which must be reviewed by the Legislature as provided in section
17 48-1,102, fifty percent shall be added for waiting time for delinquent
18 payments thirty days after the effective date of the legislative bill
19 appropriating any funds necessary to pay the portion of the award or
20 judgment in excess of one hundred thousand dollars.

21 ~~(4)(a)~~ ~~(2)(a)~~ Whenever the employer refuses payment of compensation
22 or medical payments subject to section 48-120, or when the employer
23 neglects to pay compensation for thirty days after injury or neglects to
24 pay medical payments subject to such section after thirty days' notice
25 has been given of the obligation for medical payments, and proceedings
26 are held before the compensation court, a reasonable attorney's fee shall
27 be allowed the employee by the compensation court in all cases when the
28 employee receives an award. Attorney's fees allowed shall not be deducted
29 from the amounts ordered to be paid for medical services nor shall
30 attorney's fees be charged to the medical providers.

31 (b) If the employer files an appeal from an award of a judge of the
1 compensation court and fails to obtain any reduction in the amount of
2 such award, the Court of Appeals or Supreme Court shall allow the
3 employee a reasonable attorney's fee to be taxed as costs against the
4 employer for such appeal.

5 (c) If the employee files an appeal from an order of a judge of the
6 compensation court denying an award and obtains an award or if the
7 employee files an appeal from an award of a judge of the compensation
8 court when the amount of compensation due is disputed and obtains an
9 increase in the amount of such award, the Court of Appeals or Supreme
10 Court may allow the employee a reasonable attorney's fee to be taxed as
11 costs against the employer for such appeal.

12 (d) A reasonable attorney's fee allowed pursuant to this subsection
13 shall not affect or diminish the amount of the award.

14 ~~(5)~~ ~~(3)~~ When an attorney's fee is allowed pursuant to this section,
15 there shall further be assessed against the employer an amount of
16 interest on the final award obtained, computed from the date compensation
17 was payable, as provided in section 48-119, until the date payment is
18 made by the employer. For any injury occurring prior to August 30, 2015,
19 the interest rate shall be equal to the rate of interest allowed per
20 annum under section 45-104.01, as such rate may from time to time be
21 adjusted by the Legislature. For any injury occurring on or after August
22 30, 2015, the interest rate shall be equal to six percentage points above
23 the bond investment yield, as published by the Secretary of the Treasury
24 of the United States, of the average accepted auction price for the first
25 auction of each annual quarter of the twenty-six-week United States
26 Treasury bills in effect on the date of entry of the judgment. Interest
27 shall apply only to those weekly compensation benefits awarded which have
28 accrued as of the date payment is made by the employer. If the employer

29 pays or tenders payment of compensation, the amount of compensation due
 30 is disputed, and the award obtained is greater than the amount paid or
 31 tendered by the employer, the assessment of interest shall be determined
 1 solely upon the difference between the amount awarded and the amount
 2 tendered or paid.

3 (6) For purposes of this section:

4 (a) Direct deposit means the transfer of payments into an account of
 5 a financial institution chosen by the employee or other person entitled
 6 to compensation; and

7 (b) Prepaid card means a prepaid debit card that provides access to
 8 an account with a financial institution established directly or
 9 indirectly by the employer, workers' compensation insurer, or risk
 10 management pool to which payments are transferred.

11 Sec. 2. Original section 48-125, Revised Statutes Cumulative
 12 Supplement, 2016, is repealed.

(Signed) Joni Albrecht, Chairperson

Agriculture

LEGISLATIVE BILL 766. Placed on General File.

(Signed) Lydia Brasch, Chairperson

COMMITTEE REPORT(S)

Agriculture

The Agriculture Committee desires to report favorably upon the
 appointment(s) listed below. The Committee suggests the appointments(s)
 be confirmed by the Legislature and suggests a record vote.

Richard (Rick) Rasby - Climate Assessment Response Committee

Aye: 8 Albrecht, Blood, Brasch, Chambers, Halloran, Krist, Lowe,
 Thibodeau. Nay: 0. Absent: 0. Present and not voting: 0.

The Agriculture Committee desires to report favorably upon the
 appointment(s) listed below. The Committee suggests the appointments(s)
 be confirmed by the Legislature and suggests a record vote.

Carl Sousek - Climate Assessment Response Committee

Aye: 8 Albrecht, Blood, Brasch, Chambers, Halloran, Krist, Lowe,
 Thibodeau. Nay: 0. Absent: 0. Present and not voting: 0.

(Signed) Lydia Brasch, Chairperson

SELECT FILE

LEGISLATIVE BILL 743. ER107, found on page 524, was adopted.

Senator Lindstrom offered his amendment, AM1875, found on page 623.

The Lindstrom amendment was adopted with 35 ayes, 0 nays, 5 present and not voting, and 9 excused and not voting.

Senator Harr offered the following amendment:

AM2066

1 1. Insert the following new sections:

2 Sec. 28. Section 44-8601, Revised Statutes Cumulative Supplement,
3 2016, is amended to read:

4 44-8601 Sections 44-8601 to 44-8604 and sections 30 to 33 of this
5 act shall be known and may be cited as the Insured Homeowners Protection
6 Act.

7 Sec. 29. Section 44-8602, Revised Statutes Cumulative Supplement,
8 2016, is amended to read:

9 44-8602 For purposes of the Insured Homeowners Protection Act:

10 (1) Residential contractor means a person in the business of
11 contracting or offering to contract with an owner or possessor of
12 residential real estate to:

13 (a) Repair ~~repair~~ or replace a roof system or perform any other
14 exterior repair, replacement, construction, or reconstruction work on
15 residential real estate; ~~or~~

16 (b) Perform ~~perform~~ interior or exterior cleanup services on
17 residential real estate;

18 (c) Arrange for, manage, or process the work referred to in
19 subdivision (1)(a) or (b) of this section; or

20 (d) Serve as a representative, agent, or assignee of the owner or
21 possessor of residential real estate;

22 (2) Residential real estate means a new or existing building,
23 including a detached garage, constructed for habitation by at least one
24 but no more than four families; and

25 (3) Roof system means and includes roof coverings, roof sheathing,
26 roof weatherproofing, and insulation.

27 Sec. 30. (1) A post-loss assignment of rights or benefits to a
1 residential contractor under a property and casualty insurance policy
2 insuring residential real estate shall comply with the following:

3 (a) The assignment may authorize a residential contractor to be
4 named as a copayee for the payment of benefits under a property and
5 casualty insurance policy covering residential real estate;

6 (b) The assignment shall be provided to the insurer of the
7 residential real estate within five business days after execution;

8 (c) The assignment shall include a statement that the residential
9 contractor has made no assurances that the claimed loss will be fully
10 covered by an insurance contract and shall include the following notice
11 in capitalized fourteen-point type:

12 YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS YOU HAVE UNDER YOUR
13 INSURANCE POLICY. WITH AN ASSIGNMENT, THE RESIDENTIAL CONTRACTOR SHALL BE
14 ENTITLED TO PURSUE ANY RIGHTS OR REMEDIES THAT YOU, THE INSURED
15 HOMEOWNER, HAVE UNDER YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND
16 THIS DOCUMENT BEFORE SIGNING.

17 THE INSURER MAY ONLY PAY FOR THE COST TO REPAIR OR REPLACE DAMAGED
18 PROPERTY CAUSED BY A COVERED PERIL, SUBJECT TO THE TERMS OF THE POLICY.

19 (d) The assignment shall not impair the interest of a mortgagee

20 listed on the declarations page of the property and casualty insurance
 21 policy which is the subject of the assignment; and
 22 (e) The assignment shall not prevent or inhibit an insurer from
 23 communicating with the named insured or mortgagee listed on the
 24 declarations page of the property and casualty insurance policy that is
 25 the subject of the assignment.
 26 (2) The Department of Insurance shall strictly enforce the
 27 provisions of subdivision (13) of section 44-1540, which requires
 28 insurers to provide a named insured a reasonable and accurate explanation
 29 of the basis for the denial of a claim or an offer of a compromise
 30 settlement.
 31 Sec. 31. Prior to commencement of repair or replacement work, a
 1 residential contractor shall furnish the insured and insurer with an
 2 itemized description of the work to be done and the materials, labor, and
 3 fees for repair or replacement of the damaged residential real estate and
 4 the total itemized amount agreed to be paid for the work to be performed,
 5 except that the description shall not limit the insured or residential
 6 contractor from identifying other goods and services necessary to
 7 complete repairs or replacement associated with a covered loss.
 8 Sec. 32. Any written contract, repair estimate, or work order
 9 prepared by a residential contractor to provide goods or services to be
 10 paid from the proceeds of a property and casualty insurance policy shall
 11 include the following notice of the prohibition contained in section
 12 44-8604 in capitalized fourteen-point type which shall be signed by the
 13 named insured and sent to the named insured's insurer prior to payment of
 14 proceeds under the applicable insurance policy:
 15 IT IS A VIOLATION OF THE INSURANCE LAWS OF NEBRASKA TO REBATE ANY
 16 PORTION OF AN INSURANCE DEDUCTIBLE AS AN INDUCEMENT TO THE INSURED TO
 17 ACCEPT A RESIDENTIAL CONTRACTOR'S PROPOSAL TO REPAIR DAMAGED PROPERTY.
 18 REBATE OF A DEDUCTIBLE INCLUDES GRANTING ANY ALLOWANCE OR OFFERING ANY
 19 DISCOUNT AGAINST THE FEES TO BE CHARGED FOR WORK TO BE PERFORMED OR
 20 PAYING THE INSURED HOMEOWNER THE DEDUCTIBLE AMOUNT SET FORTH IN THE
 21 INSURANCE POLICY.
 22 THE INSURED HOMEOWNER IS PERSONALLY RESPONSIBLE FOR PAYMENT OF THE
 23 DEDUCTIBLE. THE INSURANCE FRAUD ACT AND NEBRASKA CRIMINAL STATUTES
 24 PROHIBIT THE INSURED HOMEOWNER FROM ACCEPTING FROM A RESIDENTIAL
 25 CONTRACTOR A REBATE OF THE DEDUCTIBLE OR OTHERWISE ACCEPTING ANY
 26 ALLOWANCE OR DISCOUNT FROM THE RESIDENTIAL CONTRACTOR TO COVER THE COST
 27 OF THE DEDUCTIBLE. VIOLATIONS MAY BE PUNISHABLE BY CIVIL OR CRIMINAL
 28 PENALTIES.
 29 Sec. 33. A contract entered into with a residential contractor is
 30 void if the residential contractor violates any provision of the Insured
 31 Homeowners Protection Act.
 1 2. Renumber the remaining sections and correct the repealer
 2 accordingly.

The Harr amendment was adopted with 35 ayes, 0 nays, 7 present and not voting, and 7 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 936. Senator Bolz offered the following amendment:

AM2067

1 1. On page 4, strike lines 16 through 20 and insert the following
2 new subdivision:

3 "(c) High-quality job means a job that:

4 (i) Averages at least thirty-five hours of employment per week;

5 (ii) Is reported to the Department of Labor on two consecutive
6 quarterly wage reports; and

7 (iii) Earns wages that are at least ten percent higher than the

8 statewide industry sector average and that equal or exceed;

9 (A) One hundred ten percent of the Nebraska average weekly wage if

10 the job is in a county with a population of less than one hundred

11 thousand inhabitants; or

12 (B) One hundred twenty percent of the Nebraska average weekly wage

13 if the job is in a county with a population of one hundred thousand

14 inhabitants or more;"; after line 25 insert the following new

15 subdivision:

16 "(e) Nebraska average weekly wage means the most recent average

17 weekly wage paid by all employers in all counties in Nebraska as reported

18 by the Department of Labor by October 1 of each year;"; and in line 26

19 strike "(e)" and insert "(f)".

20 2. On page 5, line 3, strike "(f)" and insert "(g)"; in line 14

21 strike "(g)" and insert "(h)"; and in line 17 strike "(h)" and insert

22 "(i)".

The Bolz amendment was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

LEGISLATIVE BILL 750. ER109, found on page 591, was adopted.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORT(S)

Business and Labor

LEGISLATIVE BILL 953. Placed on General File with amendment.

AM1779

1 1. Strike the original sections and insert the following new

2 sections:

3 Section 1. Section 48-139, Revised Statutes Cumulative Supplement,

4 2016, is amended to read:

5 48-139 (1)(a) Whenever an injured employee or his or her dependents

6 and the employer agree that the amounts of compensation due as periodic

7 payments for death, permanent disability, or claimed permanent disability

8 under the Nebraska Workers' Compensation Act shall be commuted to one or

9 more lump-sum payments, such settlement shall be submitted to the

10 Nebraska Workers' Compensation Court for approval as provided in
11 subsection (2) of this section if:

- 12 (i) The employee is not represented by counsel;
13 (ii) The employee, at the time the settlement is executed, is
14 eligible for medicare, is a medicare beneficiary, or has a reasonable
15 expectation of becoming eligible for medicare within thirty months after
16 the date the settlement is executed;
17 (iii) Medical, surgical, or hospital expenses incurred for treatment
18 of the injury have been paid by medicaid and medicaid will not be
19 reimbursed as part of the settlement;
20 (iv) Medical, surgical, or hospital expenses incurred for treatment
21 of the injury will not be fully paid as part of the settlement; or
22 (v) The settlement seeks to commute amounts of compensation due to
23 dependents of the employee.

24 (b) If such lump-sum settlement is not required to be submitted for
25 approval by the compensation court, a release shall be filed with the
26 compensation court as provided in subsection (3) of this section. Nothing
27 in this section shall be construed to increase the compensation court's
1 duties or authority with respect to the approval of lump-sum settlements
2 under the act.

3 (2)(a) An application for an order approving a lump-sum settlement,
4 signed and verified by both parties, shall be filed with the clerk of the
5 compensation court and shall be entitled the same as an action by such
6 employee or dependents against such employer. The application shall
7 contain a concise statement of the terms of the settlement or agreement
8 sought to be approved with a brief statement of the facts concerning the
9 injury, the nature thereof, the wages received by the injured employee
10 prior thereto, the nature of the employment, and such other matters as
11 may be required by the compensation court. The application may provide
12 for payment of future medical, surgical, or hospital expenses incurred by
13 the employee. The compensation court may, on its own motion, and shall
14 on a motion by one of the parties, hold a hearing on the application at a
15 time and place selected by the compensation court, and proof may be
16 adduced and witnesses subpoenaed and examined the same as in an action in
17 equity.

18 ~~(b)(i)~~ If the compensation court finds such lump-sum settlement
19 is made in conformity with the compensation schedule and for the best
20 interests of the employee or his or her dependents under all the
21 circumstances, the compensation court shall make an order approving the
22 same.

23 (ii) If medical, surgical, or hospital services provided to the
24 employee are not paid by the employer, or if any person, other than
25 medicaid, who has made any payment to the supplier of medical, surgical,
26 or hospital services provided to the employee, is not reimbursed by the
27 employer, it shall be conclusively presumed that the resolution of
28 payment of disputed medical, surgical, or hospital services set forth in
29 the application for approval of a lump-sum settlement is in conformity
30 with the compensation schedule and for the best interests of the employee
31 or his or her dependents, if the employee's attorney elects to affirm in

1 the application that the resolution of payment of disputed medical,
2 surgical, or hospital services is in conformity with the compensation
3 schedule and for the best interests of the employee or his or her
4 dependents under all the circumstances.
5 (iii) If the employee, at the time the settlement is executed, is
6 eligible for medicare, is a medicare beneficiary, or has a reasonable
7 expectation of becoming eligible for medicare within thirty months after
8 the date the settlement is executed, and if the employee's attorney
9 elects to affirm in the application for an order approving the settlement
10 that the parties' agreement relating to consideration of medicare's
11 interests set forth in such lump-sum settlement is in conformity with the
12 compensation schedule and for the best interests of the employee or his
13 or her dependents under all the circumstances, it shall be conclusively
14 presumed that the parties' agreement relating to consideration of
15 medicare's interests set forth in the application for approval of a lump-
16 sum settlement is in conformity with the compensation schedule and for
17 the best interests of the employee or his or her dependents.
18 (iv) If such settlement is not approved, the compensation court may
19 dismiss the application at the cost of the employer or continue the
20 hearing, in the discretion of the compensation court.
21 (c) Every such lump-sum settlement approved by order of the
22 compensation court shall be final and conclusive unless procured by
23 fraud. Upon paying the amount approved by the compensation court, the
24 employer (†) shall be discharged from further liability on account of the
25 injury or death, other than liability for the payment of future medical,
26 surgical, or hospital expenses if such liability is approved by the
27 compensation court on the application of the parties, ~~and (ii) shall be~~
28 ~~entitled to a duly executed release. Upon filing the release, the~~
29 ~~liability of the employer under any agreement, award, finding, or decree~~
30 ~~shall be discharged of record.~~
31 (3) If such lump-sum settlement is not required to be submitted for
1 approval by the compensation court, a release shall be filed with the
2 compensation court in accordance with this subsection that is signed and
3 verified by the employee and the employee's attorney. The release shall
4 be made on a form approved by the compensation court and shall contain a
5 statement signed and verified by the employee that:
6 (a) The employee understands and waives all rights under the
7 Nebraska Workers' Compensation Act, including, but not limited to:
8 (i) The right to receive weekly disability benefits, both temporary
9 and permanent;
10 (ii) The right to receive vocational rehabilitation services;
11 (iii) The right to receive future medical, surgical, and hospital
12 services as provided in section 48-120, unless such services are
13 specifically excluded from the release; and
14 (iv) The right to ask a judge of the compensation court to decide
15 the parties' rights and obligations;
16 (b) The employee is not eligible for medicare, is not a current
17 medicare beneficiary, and does not have a reasonable expectation of
18 becoming eligible for medicare within thirty months after the date the

19 settlement is executed;
 20 (c) There are no medical, surgical, or hospital expenses incurred
 21 for treatment of the injury which have been paid by medicaid and not
 22 reimbursed to medicaid by the employer as part of the settlement; and
 23 (d) There are no medical, surgical, or hospital expenses incurred
 24 for treatment of the injury that will remain unpaid after the settlement.
 25 (4) Upon the entry of an order of dismissal with prejudice, a
 26 release filed with the compensation court in accordance with subsection
 27 (3) of this section shall be final and conclusive as to all rights waived
 28 in the release unless procured by fraud. Amounts to be paid by the
 29 employer to the employee pursuant to such release shall be paid within
 30 thirty days of filing the release with the compensation court. Fifty
 31 percent shall be added for payments owed to the employee if made after
 1 thirty days after the date the release is filed with the compensation
 2 court. Upon making payment owed by the employer as set forth in the
 3 release and upon the entry of an order of dismissal with prejudice, as to
 4 all rights waived in the release, such release shall be a full and
 5 complete discharge from further liability for the employer on account of
 6 the injury, including future medical, surgical, or hospital expenses,
 7 unless such expenses are specifically excluded from the release, ~~and the~~
 8 ~~court shall enter an order of dismissal with prejudice as to all rights~~
 9 ~~waived in the release.~~
 10 (5) The fees of the clerk of the compensation court for filing,
 11 docketing, and indexing an application for an order approving a lump-sum
 12 settlement or filing a release as provided in this section shall be
 13 fifteen dollars. The fees shall be remitted by the clerk to the State
 14 Treasurer for credit to the Compensation Court Cash Fund.
 15 Sec. 2. Original section 48-139, Revised Statutes Cumulative
 16 Supplement, 2016, is repealed.

(Signed) Joni Albrecht, Chairperson

SELECT FILE

LEGISLATIVE BILL 775. Senator Chambers offered the following motion:
 MO223
 Indefinitely postpone.

Senator Chambers moved for a call of the house. The motion prevailed with 11 ayes, 0 nays, and 38 not voting.

Senator Chambers requested a roll call vote on the motion to indefinitely postpone.

Voting in the affirmative, 0.

Voting in the negative, 41:

Albrecht	Ebke	Hilkemann	McCollister	Walz
Baker	Erdman	Howard	McDonnell	Watermeier
Blood	Friesen	Hughes	Morfeld	Wayne
Bostelman	Geist	Kolterman	Pansing Brooks	Williams
Brasch	Groene	Krist	Quick	Wishart
Brewer	Halloran	Kuehn	Riepe	
Briese	Hansen	Lindstrom	Scheer	
Clements	Harr	Linehan	Smith	
Crawford	Hilgers	Lowe	Stinner	

Present and not voting, 2:

Chambers Schumacher

Absent and not voting, 1:

Bolz

Excused and not voting, 5:

Kolowski Larson Murante Thibodeau Vargas

The Chamber motion to indefinitely postpone failed with 0 ayes, 41 nays, 2 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following motion:

MO225

Reconsider the vote to indefinitely postpone.

Senator Chambers moved for a call of the house. The motion prevailed with 12 ayes, 4 nays, and 33 not voting.

The Chambers motion to reconsider failed with 2 ayes, 37 nays, 3 present and not voting, and 7 excused and not voting.

Senator Stinner offered the following motion:

MO226

Invoke cloture pursuant to Rule 7, Sec. 10.

Senator Chambers requested a record vote on the motion to invoke cloture.

Voting in the affirmative, 41:

Albrecht	Crawford	Hilgers	McCollister	Thibodeau
Baker	Ebke	Hilkemann	McDonnell	Walz
Blood	Erdman	Howard	Pansing Brooks	Wayne
Bolz	Friesen	Hughes	Quick	Williams
Bostelman	Geist	Kolterman	Riepe	Wishart
Brasch	Groene	Kuehn	Scheer	
Brewer	Halloran	Lindstrom	Schumacher	
Briese	Hansen	Linehan	Smith	
Clements	Harr	Lowe	Stinner	

Voting in the negative, 1:

Chambers

Excused and not voting, 7:

Kolowski	Larson	Murante	Watermeier
Krist	Morfeld	Vargas	

The Stinner motion to invoke cloture prevailed with 41 ayes, 1 nay, and 7 excused and not voting.

Senator Chambers requested a record vote on the advancement of the bill.

Voting in the affirmative, 42:

Albrecht	Ebke	Hilkemann	McDonnell	Vargas
Blood	Erdman	Howard	Pansing Brooks	Walz
Bolz	Friesen	Hughes	Quick	Watermeier
Bostelman	Geist	Kolterman	Riepe	Wayne
Brasch	Groene	Kuehn	Scheer	Williams
Brewer	Halloran	Lindstrom	Schumacher	Wishart
Briese	Hansen	Linehan	Smith	
Clements	Harr	Lowe	Stinner	
Crawford	Hilgers	McCollister	Thibodeau	

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Baker

Excused and not voting, 5:

Kolowski	Krist	Larson	Morfeld	Murante
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Advanced to Enrollment and Review for Engrossment with 42 ayes, 1 nay, 1 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

LEGISLATIVE BILL 256. ER104, found on page 491, was adopted.

Senator Briese offered his amendment, AM1752, found on page 545.

The Briese amendment was adopted with 32 ayes, 0 nays, 12 present and not voting, and 5 excused and not voting.

Senator Chambers offered the following motion:

MO227

Indefinitely postpone.

Senator Chambers withdrew his motion to indefinitely postpone.

Advanced to Enrollment and Review for Engrossment.

COMMITTEE REPORT(S)

Health and Human Services

LEGISLATIVE BILL 717. Placed on General File.

LEGISLATIVE BILL 1073. Placed on General File.

LEGISLATIVE BILL 702. Placed on General File with amendment.

AM1887

1 1. Strike the original sections and insert the following new

2 sections:

3 Section 1. Section 42-369, Reissue Revised Statutes of Nebraska, is

4 amended to read:

5 42-369 (1) All orders, decrees, or judgments for temporary or

6 permanent support payments, including child, spousal, or medical support,

7 and all orders, decrees, or judgments for alimony or modification of

8 support payments or alimony shall direct the payment of such sums to be

9 made commencing on the first day of each month for the use of the persons

10 for whom the support payments or alimony have been awarded. Such payments

11 shall be made to the clerk of the district court (a) when the order,

12 decree, or judgment is for spousal support, alimony, or maintenance

13 support and the order, decree, or judgment does not also provide for

14 child support, and (b) when the payment constitutes child care or day

15 care expenses, unless payments under subdivision (1)(a) or (1)(b) of this

16 section are ordered to be made directly to the obligee. All other support

17 order payments shall be made to the State Disbursement Unit. In all cases

18 in which income withholding has been implemented pursuant to the Income

19 Withholding for Child Support Act or sections 42-364.01 to 42-364.14,

20 support order payments shall be made to the State Disbursement Unit. The

21 court may order such payment to be in cash or guaranteed funds.

22 (2)(a) If the party against whom an order, decree, or judgment for

23 child support is entered or the custodial party has health care coverage

24 ~~insurance~~ available to him or her through an employer, organization, or

25 other health ~~care coverage insurance~~ entity which may extend to cover any
26 children affected by the order, decree, or judgment and the health care
27 coverage is accessible to the children and is available to the
1 responsible party at reasonable cost, the court shall require health care
2 coverage to be provided. Health care coverage is accessible if the
3 covered children can obtain services from a plan provider with reasonable
4 effort by the custodial party. When the administrative agency, court, or
5 other tribunal determines that the only health care coverage option
6 available through the noncustodial party is a plan that limits service
7 coverage to providers within a defined geographic area, the
8 administrative agency, court, or other tribunal shall determine whether
9 the child lives within the plan's service area. If the child does not
10 live within the plan's service area, the administrative agency, court, or
11 other tribunal shall determine whether the plan has a reciprocal
12 agreement that permits the child to receive coverage at no greater cost
13 than if the child resided in the plan's service area. The administrative
14 agency, court, or other tribunal shall also determine if primary care is
15 available within thirty minutes or thirty miles of the child's residence.
16 For the purpose of determining the accessibility of health care coverage,
17 the administrative agency, court, or other tribunal may determine and
18 include in an order that longer travel times are permissible if
19 residents, in part or all of the service area, customarily travel
20 distances farther than thirty minutes or thirty miles. If primary care
21 services are not available within these constraints, the health care
22 coverage is presumed inaccessible. If health care coverage is not
23 available or is inaccessible and one or more of the parties are receiving
24 Title IV-D services, then cash medical support shall be ordered. Cash
25 medical support or the cost of health care coverage ~~private health~~
26 ~~insurance~~ is considered reasonable in cost if the cost to the party
27 responsible for providing medical support does not exceed three percent
28 of his or her gross income. In applying the three-percent standard, the
29 cost is the cost of adding the children to existing health care coverage
30 or the difference between self-only and family health care coverage. Cash
31 medical support payments shall not be ordered if, at the time that the
1 order is issued or modified, the responsible party's income is or such
2 expense would reduce the responsible party's net income below the basic
3 subsistence limitation provided in Nebraska Court Rule section 4-218. If
4 such rule does not describe a basic subsistence limitation, the
5 responsible party's net income shall not be reduced below nine hundred
6 three dollars net monthly income for one person or below the poverty
7 guidelines updated annually in the Federal Register by the United States
8 Department of Health and Human Services under the authority of 42 U.S.C.
9 9902(2).

10 (b) For purposes of this section:

11 (i) Health care coverage has the same meaning as in section
12 44-3,144; and

13 (ii) Cash medical support means an amount ordered to be paid toward
14 the cost of health care coverage ~~insurance~~ provided by a public entity or
15 by another parent through employment or otherwise or for other medical

16 costs not covered by insurance or other health care coverage.

17 (3) A support order, decree, or judgment may include the providing
18 of necessary shelter, food, clothing, care, medical support as defined in
19 section 43-512, medical attention, expenses of confinement, education
20 expenses, funeral expenses, and any other expense the court may deem
21 reasonable and necessary.

22 (4) Orders, decrees, and judgments for temporary or permanent
23 support or alimony shall be filed with the clerk of the district court
24 and have the force and effect of judgments when entered. The clerk and
25 the State Disbursement Unit shall disburse all payments received as
26 directed by the court and as provided in sections 42-358.02 and
27 43-512.07. Records shall be kept of all funds received and disbursed by
28 the clerk and the unit and shall be open to inspection by the parties and
29 their attorneys.

30 (5) Unless otherwise specified by the court, an equal and
31 proportionate share of any child support awarded shall be presumed to be
1 payable on behalf of each child subject to the order, decree, or judgment
2 for purposes of an assignment under section 43-512.07.

3 Sec. 2. Section 43-512.12, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 43-512.12 (1) Child support orders in cases in which a party has
6 applied for services under Title IV-D of the federal Social Security Act,
7 as amended, shall be reviewed by the Department of Health and Human
8 Services to determine whether to refer such orders to the county attorney
9 or authorized attorney for filing of an application for modification. An
10 order shall be reviewed by the department upon its own initiative or at
11 the request of either parent when such review is required by Title IV-D
12 of the federal Social Security Act, as amended. After review the
13 department shall refer an order to a county attorney or authorized
14 attorney when the verifiable financial information available to the
15 department indicates:

16 (a) The present child support obligation varies from the Supreme
17 Court child support guidelines pursuant to section 42-364.16 by more than
18 the percentage, amount, or other criteria established by Supreme Court
19 rule, and the variation is due to financial circumstances which have
20 lasted at least three months and can reasonably be expected to last for
21 an additional six months; or

22 (b) Health care coverage meeting the requirements of subsection (2)
23 of section 42-369 is available to either party and the children do not
24 have health care coverage other than the medical assistance program under
25 the Medical Assistance Act.

26 Health care coverage cases may be modified within three years of
27 entry of the order.

28 (2) Orders that are not addressed under subsection (1) of this
29 section shall not be reviewed by the department if it has not been three
30 years since the present child support obligation was ordered unless the
31 requesting party demonstrates a substantial change in circumstances that
1 is expected to last for the applicable time period established by
2 subdivision (1)(a) of this section. Such substantial change in

3 circumstances may include, but is not limited to, change in employment,
4 earning capacity, or income or receipt of an ongoing source of income
5 from a pension, gift, or lottery winnings. An order may be reviewed after
6 one year if the department's determination after the previous review was
7 not to refer to the county attorney or authorized attorney for filing of
8 an application for modification because financial circumstances had not
9 lasted or were not expected to last for the time periods established by
10 subdivision (1)(a) of this section.

11 (3) Notwithstanding the time periods set forth in subdivision (1)(a)
12 of this section, within fifteen business days of learning that a
13 noncustodial parent will be incarcerated for more than one hundred eighty
14 calendar days, the department shall send notice to both parents informing
15 them of the right to request the state to review and, if appropriate,
16 adjust the order.

17 Sec. 3. Section 43-512.15, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 43-512.15 (1) The county attorney or authorized attorney, upon
20 referral from the Department of Health and Human Services, shall file a
21 complaint to modify a child support order unless the attorney determines
22 in the exercise of independent professional judgment that:

23 (a) The variation from the Supreme Court child support guidelines
24 pursuant to section 42-364.16 is based on material misrepresentation of
25 fact concerning any financial information submitted to the attorney;

26 (b) The variation from the guidelines is due to a voluntary
27 reduction in net monthly income. Incarceration may not be treated as
28 voluntary unemployment in establishing or modifying support orders For
29 purposes of this section, a person who has been incarcerated for a period
30 of one year or more in a county or city jail or a federal or state
31 correctional facility shall be considered to have an involuntary
1 reduction of income unless (i) the incarceration is a result of a
2 conviction for criminal nonsupport pursuant to section 28-706 or a
3 conviction for a violation of any federal law or law of another state
4 substantially similar to section 28-706, (ii) the incarcerated individual
5 has a documented record of willfully failing or neglecting to provide
6 proper support which he or she knew or reasonably should have known he or
7 she was legally obligated to provide when he or she had sufficient
8 resources to provide such support, or (iii) the incarceration is a result
9 of a conviction for a crime in which the child who is the subject of the
10 child support order was victimized; or

11 (c) When the amount of the order is considered with all the other
12 undisputed facts in the case, no variation from the criteria set forth in
13 subdivisions (1)(a) and (b) of section 43-512.12 exists.

14 ~~(2) The department, a county attorney, or an authorized attorney~~
15 ~~shall not in any case be responsible for reviewing or filing an~~
16 ~~application to modify child support for individuals incarcerated as~~
17 ~~described in subdivision (1)(b) of this section.~~

18 ~~(2)~~ ~~(3)~~ The proceedings to modify a child support order shall comply
19 with section 42-364, and the county attorney or authorized attorney shall
20 represent the state in the proceedings.

21 (3) (4) After a complaint to modify a child support order is filed,
22 any party may choose to be represented personally by private counsel. Any
23 party who retains private counsel shall so notify the county attorney or
24 authorized attorney in writing.

25 Sec. 4. Section 44-3,144, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 44-3,144 For purposes of sections 44-3,144 to 44-3,150:

28 (1) Authorized attorney has the same meaning as in section 43-512;

29 (2) Child means an individual to whom or on whose behalf a legal
30 duty of support is owed by an obligor;

31 (3) Department means the Department of Health and Human Services;

1 (4) Employer means an individual, a firm, a partnership, a
2 corporation, an association, a union, a political subdivision, a state
3 agency, or any agent thereof who pays income to an obligor on a periodic
4 basis and has or provides health care coverage to the obligor-employee;

5 (5) Health care coverage means a health benefit plan or combination
6 of plans, including fee for service, health maintenance organization,
7 preferred provider organization, and other types of coverage available to
8 either party, under which medical services could be provided to dependent
9 children, ~~other than public medical assistance programs~~, that provide
10 medical care or benefits;

11 (6) Insurer means an insurer as defined in section 44-103 offering a
12 group health plan as defined in 29 U.S.C. 1167, as such section existed
13 on January 1, 2002;

14 (7) Medical support means the provision of health care coverage,
15 contribution to the cost of health care coverage, contribution to
16 expenses associated with the birth of a child, other uninsured medical
17 expenses of a child, or any combination thereof;

18 (8) Medical assistance program means the program established
19 pursuant to the Medical Assistance Act;

20 (9) National medical support notice means a uniform administrative
21 notice issued by the county attorney, authorized attorney, or department
22 to enforce the medical support provisions of a support order;

23 (10) Obligee has the same meaning as in section 43-3341;

24 (11) Obligor has the same meaning as in section 43-3341;

25 (12) Plan administrator means the person or entity that administers
26 health care coverage for an employer;

27 (13) Qualified medical child support order means an order that meets
28 the requirements of 29 U.S.C. 1169, as such section existed on January 1,
29 2002; and

30 (14) Uninsured medical expenses means the reasonable and necessary
31 health-related expenses that are not paid by health care coverage.

1 Sec. 5. Original sections 42-369, 43-512.12, 43-512.15, and
2 44-3,144, Reissue Revised Statutes of Nebraska, are repealed.

LEGISLATIVE BILL 1035. Placed on General File with amendment.
AM1741

1 1. On page 2, lines 4 and 5, strike "an endovascular therapy" and
2 insert "a designated thrombectomy"; in line 12 strike "endovascular

3 therapy" and insert "thrombectomy"; in line 15 reinstate the stricken
 4 "or"; in line 17 strike "or the department"; and in line 26 strike "an
 5 endovascular therapy" and insert "a thrombectomy".
 6 2. On page 3, line 18, strike "endovascular therapy" and insert
 7 "thrombectomy".

(Signed) Merv Riepe, Chairperson

NOTICE OF COMMITTEE HEARING(S)

Health and Human Services

Room 1510

Tuesday, March 6, 2018 12:00 p.m.

Michael Aerni - Foster Care Advisory Committee
 Noelle Petersen - Foster Care Advisory Committee

Tuesday, March 13, 2018 12:00 p.m.

Stacie L. Ray - Commission for the Deaf and Hard of Hearing

(Signed) Merv Riepe, Chairperson

RESOLUTION(S)

LEGISLATIVE RESOLUTION 319. Introduced by Quick, 35.

PURPOSE: The purpose of this resolution is to determine a sustainable revenue source for the Nebraska Main Street Network. The Nebraska Main Street Network brings together communities across the state to learn how to utilize a historic preservation-based strategy of rebuilding the places and strengthening the businesses that make more sustainable, vibrant, and unique communities. Through affiliation with the National Main Street Center, Nebraska's Main Street communities tap into the collective wisdom and experience of more than one thousand five hundred communities in forty-six state, regional, and urban programs. The Legislature began providing funding to support the program in 1997, with the funding renewed every two years through a bill appropriating such funds. Legislative Bill 281 was introduced during the 2017 legislative session to provide an appropriation of \$100,000 for each year of the current biennium and is currently being considered by the Appropriations Committee.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIFTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Urban Affairs Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

UNANIMOUS CONSENT - Add Cointroducer(s)

Unanimous consent to add Senator(s) as cointroducer(s). No objections. So ordered.

Senator Pansing Brooks name added to LB773.

Senator McCollister name added to LB1069.

VISITORS

Visitors to the Chamber were Kristi Thornton from Lincoln; 5 members of the Nebraska Petroleum Producers Association; and John Rundel, Oil and Gas Conservation Commissioner, from Trenton.

The Doctor of the Day was Dr. Kaitlin Hahn from Omaha.

ADJOURNMENT

At 11:52 a.m., on a motion by Senator Blood, the Legislature adjourned until 9:00 a.m., Friday, February 23, 2018.

Patrick J. O'Donnell
Clerk of the Legislature

